CRIMES COMPENSATION BOARD

Annual Report

March 31, 1984

Alberta

85-4505/

THE CRIMES COMPENSATION BOARD SUMMARY

ANNUAL REPORT FOR PERIOD

APRIL 1, 1983 TO MARCH 31, 1984

Alberta

Attorney General

THE CRIMES COMPENSATION
BOARD

9833 - 109 Street, Edmonton, Alberta, Canada T5K 2E8 403-427-7217

January 15, 1985

The Honourable Neil Crawford, Q.C.,
Attorney General of Alberta,
Legislature Building,
Edmonton, Alberta.

Dear Sir:

I submit herewith the Annual Report of the Crimes Compensation Board for the period April 1, 1983 to March 31, 1984.

Respectfully submitted,

B. V. Massie

Bruce V. Massie, Q.C.,
Chairman

THE BOARD

BRUCE V. MASSIE, Q.C. - CHAIRMAN

BORIS A. NAHORNICK, M.D. - VICE CHAIRMAN

TERENCE J. NUGENT - MEMBER

Copies of this report may be obtained from:

Crimes Compensation Board

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INTRODUCTION

The Criminal Injuries Compensation Act was enacted in 1969 to provide assistance to victims of violent crime who suffer financial loss as a direct result of injuries or death.

The Crimes Compensation Board, established under The Criminal Injuries Compensation Act, consists of three members appointed by the Lieutenant Governor in Council, one of whom must be a barrister and solicitor. The present members of the Board are: B.V. Massie, Q.C., Chairman; Dr. B.A. Nahornick, Vice-Chairman and T.J. Nugent, Member.

The Board is directed to hold hearings in the presence of the victim to review claims and although proceedings are informal, any false statement made to the Board is punishable by a fine not exceeding $500. Evidence is obtained from reports by police, hospitals, doctors, dentists, employers and income tax returns in addition to hearing the applicant and witnesses if required.

The Board may make orders for compensation when injury or death is a direct result of an act or omission of another person that occurred in Alberta and is within the description of any of the criminal offences set out in Schedule 1 of the Act or to a person who attempts to make an arrest or prevents or attempts to prevent the commission of a criminal offence or assists a peace officer in so doing.

The Board may compensate for damages to or loss of property consisting of clothing or eyeglasses worn at the time of the offense. By an amending Act in force after May 4, 1982, the Board may compensate up to $10,000 for loss of or damage to property caused while a peace officer is endeavouring to prevent a criminal offence or arrest an offender for the commission of a criminal offence set out in Schedule 1 of the Act.

Claims may be considered by the Board if the crimes and injury occurred in Alberta, the details have been reported to the police within a reasonable time, the claim is received by the Board within one year of the injury or death and the loss for which the claim is made exceeds $100.

An applicant must consent to a medical examination if required by the Board and allow the Board to conduct inquiries to verify any statements made.

The Board cannot compensate for injuries caused by motor vehicles except where a spouse is killed as a result of criminal negligence on the part of the operator or because the operator was driving while impaired.

Generally the Board's jurisdiction is limited to awarding compensation for pecuniary loss suffered by the victim such as loss of wages or loss of support by a dependant of the victim and expenses incurred by the victim or others on his behalf.

Compensation as damages for physical disability, disfigurement or pain and suffering can only be awarded if the victim was preventing or arresting a person for the commission of a criminal offence. Police officers have been almost the only recipients of such awards.

APPLICATIONS

During the last fiscal year the number of applications has declined slightly to 372 from 405 (276 from males, 96 from females). Residents of other provinces accounted for 11 claims. Of the 372 applications, 327 were for personal injury, 43 were for death benefits, and two were for property damage.

The number of decisions made and recorded by the Board was 551. Payments based on these decisions during the past year totalled $964,086. Loss of earnings accounted for more than 58 per cent of this total.

As medical and hospital expenses of most victims are covered by the provincial health plans, medical expenses paid by the Board were mainly for dental work and ambulance service.

The most frequent violent crimes giving rise to applications were:

Assault Causing Bodily Harm
Robbery
Murder
Attempted Murder
Wounding with Intent
Assaulting a Police Officer

In the fiscal year, 32 applicants were refused awards. Following are examples of applications refused:

(Decision No. 2041-83) Application No. 262-5

This was an application by a male, single, age 23, for compensation for loss from injuries sustained on October 10, 1982 in Calgary. Applicant received two broken fingers and other injuries to his hand. As the applicant was receiving Workers' Compensation at the time of this injury, no pecuniary loss of wages was shown and the application was refused.

(Decision No. 2298-84) Application No. 151-6

This was an application by a female, age 46, divorced, for compensation from injuries sustained by her at a dance when bumped by a male dancer in Calgary on July 16, 1983. She fell to the floor and sprained her hip. Some time later she called the police about the incident. The Board was not satisfied that any criminal offence took place and made no award on this application.

(Decision No. 2215-83) Application No. 238-5

This was an application by a male, single, age 20, for injuries sustained by him in Edmonton on October 16, 1982. The applicant was a passenger in a car that was being tailgated by a truck. When the car pulled over and stopped, so did the truck. The applicant approached the truck and, when it started to drive away, hung on and was dragged for some distance. The license number of the truck was not obtained. The Board did not consider the evidence disclosed the commission of a criminal offence and no award was made for compensation.

MONTHLY AWARDS

The Board feels confident that its power to make awards on a monthly basis is a valuable remedy. Awards of this type provide monthly payments to a victim suffering a continued disability or, in the case of a claim for death benefits, to the dependants of a victim.

There are many instances in which payment of a lump sum to a victim would be inappropriate, particularly in times of inflation. A monthly payment involves an annual review by the Board, when amendments can be made as circumstances change.

At the present time, 46 victims are receiving monthly payments, ranging from $50 to $2,300 depending on the former earning capacity of the victim. Following are examples of monthly awards:

(Decision No. 1985-83) Application No. 278-5

Widow, age 37, five children, whose husband was fatally injured on January 15, 1982 at Calgary. In May, 1983 the Board made an interim award of $18,600 to cover funeral expenses and loss of income for 17 months, and a monthly payment of $1,000 commencing July 1, 1983. Total amount paid to date: $27,625.

(Decision No. 1667a-83) Application No. 073a-3

Victim, male, age 39, was beaten June 21, 1980 at Vegreville. Although his injuries did not appear serious at first, he was later found to have acute epidural hemotoma. Surgery was performed. he suffered severe and final damage to the brain. In June, 1982 the Board awarded $500 per month to be paid to the victim's mother for his care. Total amount paid to date, including cost of medical reports: $11,105.

(Decision No. 2131-83) Application No. 031-6

Victim, male, age 50, custodian, was beaten on December 19, 1982 at Edmonton. The victim suffered serious injuries consisting of a thrombasia of the right carotid artery with a major cerebral infarction and hemiplegia. Some permanent disability is anticipated. In September, 1983 the Board made an interim order of $1,856 for lost wages and damage to clothing and the sum of $300 per month commencing November 1, 1983. Total amount paid to date, including medical report: $3,416.

INTERIM AWARDS

An interim award is a lump sum payment made when no permanent disability is expected from injuries sustained, but is usually serious enough to warrant a reassessment of the applicant's condition in six months. In the last fiscal year 38 interim awards were granted by the Board. Following are examples:

(Decision No. 1735d-84) Application No. 017-5

Victim, male, age 26, construction laborer, was shot in both legs in January, 1982 in Calgary. The left leg healed following surgery, but the right leg suffered damage to the sciatic nerve, resulting in only a partial use of his right foot. In September, 1982 the Board awarded $5,069 for lost wages and travelling expenses. Further interim payments for lost wages have been awarded as follows: November, 1982, $1,734; June, 1983, $2,430 and $70 for medical expenses; August, 1983, $9,078; February, 1984, $5,000. The total amount paid to date is $23,381. The matter will be reviewed again when further medical reports are received.

(Decision No. 2068-83) Application No. 003-6

Victim, male, age 40, laborer, was stabbed in December, 1982 in Slave Lake. The victim suffered a major laceration to the left neck requiring repair of his left facial nerve. In July, 1983 the Board ordered an interim payment for loss of earnings in the amount of $3,802 and in November, 1983 a further payment of $4,406 for lost earnings and $169.20 for expenses in attending hearing and the doctors. Applicant will require further surgery. Total amount paid to date. $8,377.20.

(Decision No. 1773e-84) Application No. 073-5

Victim, female, age 18, was shot through the neck and spine in January, 1982 in Edmonton. The applicant's spinal cord was injured, resulting in a complete paraplegia. The applicant did not have a sufficient employment record to support a claim for pecuniary loss of wages. The Board will, having regard for support or payments received by other government departments, pay her necessary expenses of upkeep and treatment. In November, 1982 the Board ordered payment of $509.98 for a bed; in March, 1982, $300 was awarded for tuition fees; in August, 1983, $2,110 for a wheelchair (in December, 1983 the sum for the wheelchair was amended to $2,283 and an additional $57 was awarded for new tires for her old wheelchair); in November, 1983, $2,105 for tuition fees and training kit. Total amount paid to date: $7,364.98.

FINAL AWARDS

A final award is a one-time payment to cover a victim's loss of earnings and expenses resulting from a crime where the applicant is able to return to work with no decrease in earnings. There were 345 final payments awarded in the last fiscal year. Following are examples:

(Decision No. 2228-84) Application No. 121-6

Application by homeowner for property damage to his home as a result of the actions of the City of Calgary police in attempting to apprehend an offender. While attempting to arrest the offender, the police fired tear gas bombs through the windows. The Board awarded the expenses of replacing the glass, $833.95, and the cost of cleaning the premises, $1,045.32.

(Decision No. 1995-83) Application No. 388-5

Victim, male, age 21, was attacked and sexually assaulted on October 8, 1981 in Edmonton. While the applicant did not suffer any serious physical injuries, he developed a reactive depressive syndrome involving loss of appetite, weight loss and insomnia. The Board awarded $1,032 for loss of earnings and expenses in attending the hearing.

(Decision No. 2069-83) Application No. 357-5

Application for out-of-province funeral expenses arising from a fatal stabbing in Fort McMurray on January 27, 1983. In August, 1983 the Board awarded $1,500 for funeral expenses, $500 for a monument and $1,207.18 for transportation of the remains.

(Decision No. 2126-83) Application No. 060-6

Victim, male, age 23, derrickman, was injured in a fire set deliberately at Elk Island Park on June 12, 1982. The applicant suffered severe burns to his left arm, leg and back. The Board awarded $639 for lost earnings, legal fees and medical report in October, 1983.

(Decision 1928-83) Application No. 209-5

Victim, female, age 26, was sexually assaulted in Edmonton on March 11, 1982. While she did not suffer any serious physical injury, she suffered severe trauma. She returned to work but was unable to perform her duties and was dismissed. In April, 1983 the Board awarded $4,025 for lost wages, medication and damage to clothing. In September, 1983 the Board awarded a further $2,702 for lost wages.

SUPPLEMENTAL AWARDS

A supplemental award is a lump sum payment made to a victim to cover additional expenses, usually medical, which may have been incurred after the initial award. The Board granted 93 supplemental awards to applicants in the last fiscal year. Following are examples:

(Decision No. 1997a-83) Application No. 322-5

Victim, male, age 21, was assaulted while attending a bush party near Ellerslie on September 5, 1982. The Board, taking the applicant's conduct into account, ordered payment of half the incurred expenses. In June, 1983 the Board paid $22, covering medication and, in September, 1983, the sum of $616.75 was paid for dental work. Total paid out to date, including legal fees and dental report: $783.75.

(Decision No. 2109-83) Application No. 033-6

Victim, male, age 62, was assaulted by a neighbor in Raymond on January 3, 1983. The applicant received a bilateral fractured mandible which will require plastic surgery to install dentures. Payments have been authorized as follows: September, 1983, $197 for eye glasses and transportation costs and $165 for medical reports; December, 1983, $1,350 for dental treatment; January, 1984, $1,038 for hearing aids; February, 1984, $1,300 for dental work; February, 1984, $646.18 for transportation expenses; and March, 1984, $721 for dental work. Total to date: $5,417.18.

(Decision No. 1984-83) Application No. 180-5

Victim, male, age 29, was assaulted in Carseland on June 29, 1982. He suffered malocclusion, a depressed fracture of the left zygoma, a laceration in the right lateral canthal region and a fracture of the right clavicle. He underwent surgery and suffered post-operative problems. He also suffered damage to his teeth. In June, 1983 the Board awarded $13,310 for lost wages and medical expenses and $225 for medical reports and legal fees. In October, 1983 the Board awarded an additional $1,422.80 for dental work. Total amount paid to date: $14,987.80.

(Decision No. 2022-83) Application No. 329-5

Victim, female, age 19, was assaulted and raped in Calgary on April 26, 1982. The applicant suffered massive facial lacerations which required operative repair. In July, 1983 the Board awarded $1,514.62 for lost wages and medical expenses and $150 for legal fees. When further surgery was performed, the Board made an additional award of $911. 34 for lost earnings in January, 1984. Total amount paid to date: $2,575.96.

PAIN AND SUFFERING

The ability of the Board to award compensation for what is termed pain and suffering is limited, both in circumstances and amount. Compensation for disfigurement and pain and suffering caused by the injury can only be awarded if the injury occurred while the victim was preventing a crime or making an arrest or assisting a peace officer to do so. The maximum award is $10,000. The total paid out last year was $49,350, compared to $45,700 paid the previous year. The scale of these awards is well below that of comparable awards in the civil courts due to the restrictions expressed in the Act. The great majority of these awards are made to police officers who have been injured when they are arresting or pursuing offenders.

Following are examples of pain and suffering payments:

(Decision No. 2159-83) Application No. 076-6

Victim, male, age 28, police officer, was shot while trying to apprehend an escaping prisoner on July 9, 1982 in Lethbridge. The injury to the spine resulted in the applicant becoming a quadraplegic. No claim is made for pecuniary loss of wages, these having been covered under the Workers' Compensation Act. In November, 1983 the Board awarded $10,000 for pain and suffering and $90 expenses in attending the hearing.

(Decision No. 2169-83) Application No. 070-6

Victim, male, age 25, police constable, was kicked in the head and shoulder while trying to arrest a person for causing a disturbance on September 12, 1982 in Calgary. The Board awarded $750 for pain and suffering and $260 for medication, medical report and counsel fees. The applicant was successful in a civil action against the offender and returned the $1,010 to the Board.

(Decision No. 2115-83) Application No. 018-6

Victim, male, age 28, hotel supervisor, was injured in Calgary on April 16, 1982 when he tried to stop a fight between two patrons at his hotel. He suffered a broken left arm and cuts and bruises to his head and face. In September, 1983 the Board awarded $1,500 for pain and suffering and $40 for damaged clothing.

(Decision No. 2164-83) Application No. 052-6

Victim, male, age 16, was shot in Redcliff on August 4, 1982. The victim was attempting to prevent his father from shooting his mother and was shot in the arm, resulting in the loss of his arm at the elbow. The Board ordered the payment of $4,000 for pain and suffering.

PUBLIC AWARENESS

The Board believes that knowledge of the existence and mandate of the Crimes Compensation Board is increasing across the province, although the process is far from complete. One indication of this is the increase in the number of applications filed within a few days of the event.

An information brochure outlining the work of the Board and the relief it can provide has been distributed to police forces, schools, hospitals and interested groups in the province. The police forces have been provided with a summarized information card which can be given to a victim when a crime is being investigated.

The news media again has been cooperative in publicizing the Board's decisions.

The Board also wishes to acknowledge and thank the law officers of the Crown for their assistance and is mindful of the conscientious and capable manner in which the Board's staff carry out their responsibilities.

The police departments of both Calgary and Edmonton maintain Victim Services Units for assistance to victims including assistance in completing applications under the Act.

DECISIONS

The total number of decisions made by the Board in the past fiscal year was 551, broken down as follows:

Monthly Awards	43
Interim Awards	38
Final Awards	345
Supplemental Awards	93
Applications Refused	32

PAYMENTS

Payments made during this past year based on the above decisions were:

Monthly Awards	$266,340.00
Other Disbursements	37,733.34
Total	$304,073.34
Interim Awards	144,313.65
Final Awards	456,636.15
Supplemental Awards	59,062.91
	$964,086.05

A breakdown of the awards is as follows:

Loss of Earning	$563,211.97
Medical Expenses	123,694.65
Pecuniary Loss to Dependants of Victims	79,310.00
Pain and Suffering	49,350.00
Funeral Expenses	74,568.13
Other Pecuniary Loss	65,271.87
Counsel and Legal Fees	8,679.43
	$964,086.05

FEES

Fees paid to Board members totalled $79,062.26. Their disbursements totalled $12,811.94, bringing the total paid out to the Board to $91,874.20. The Board held hearings on 52 days; 25 in Edmonton, 26 in Calgary and one in Lethbridge.

TYPES OF CRIME

Of applications which had a first hearing during the 1983-84 period, the following were noted:

Arson	2
Assaulting a Peace Officer	13
Assault Causing Bodily Harm	218
Attempted Murder	22
Careless Use of a Firearm	3
Causing Bodily Harm by Criminal Negligence	5
Causing Bodily Harm with Intent	8
Causing Death by Criminal Negligence	1
Common Assault	7
Indecent Assault on a Female	1
Indecent Assault on a Male	3
Kidnapping	1
Manslaughter	6
Murder	38
Rape	8
Restricted Weapon	1
Robbery with Violence	38
Wounding with Intent	13
	388

RESIDENCE OF APPLICANTS

Alberta

Alberta Beach	1
Ardrossan	1
Assumption	1
Atikameg	1
Bear Canyon	1
Bonnyville	1
Brooks	1
Calgary	162
Canmore	3
Conklin	1
Drumheller	1
Edmonton	120
Enilda	1
Fort McMurray	2
Grand Center	1
Grande Prairie	2
Grouard	1
Hinton	2
Hobbema	1
Innisfail	3
Lamont	1
Leduc	2
Lethbridge	11
Manville	1
McLennan	1
Medicine Hat	2
Okotoks	1
Patricia	1
Plamondon	1
Ponoka	2
Redcliff	2
Red Deer	9
Rocky Mountain House	2
Sherwood Park	1
Slave Lake	1
Spruce Grove	1
St. Albert	6
Standoff	1
Stettler	1
Sunset House	1
Taber	1
Tees	1
Westlock	1
Winterburn	1
Woking	2

OTHER PROVINCES

B.C.

Burnaby	1
New Westminster	1
Penticton	1
Port Moody	1
Surrey	1
Westbank	1
West Sechelt	1

Ontario

Chapleau	1
Toronto	1

Saskatchewan

Saskatoon	1
Yorkton	1

STATISTICAL SUMMARIES
BREAKDOWN OF AWARDS

Year	Loss of Earnings	Medical Expenses	Pecuniary Loss to Dependants	Pain and Suffering	Funeral Expenses	Other Pecuniary Loss	Counsel & Legal Fees	TOTALS
1983-84	563,212	123,695	79,310	49,350	74,568	65,272	8,679	964,086
1982-83	425,858	101,021	32,830	45,700	53,788	55,673	9,681	724,551
1981-82	297,800	45,991	51,805	37,950	23,674	26,746	5,651	489,617
1980-81	302,328	39,637	45,789	24,150	24,577	31,302	7,025	474,808
1979-80	365,081	45,175	41,582	21,450	42,034	27,512	7,730	550,564
1978-79	301,217	32,621	30,577	17,036	43,695	27,123	8,580	460,849
1977	267,759	31,355	36,370	26,200	21,298	20,665	8,012	411,659
1976	219,314	23,379	32,320	35,200	5,744	45,106	10,268	371,331
1975	162,881	11,229	41,390	3,500	1,114	9,451	5,710	235,275
1974	131,967	10,336	17,127	8,000	1,248	9,081	4,540	182,299
1973	72,753	8,690	9,841	8,750	—	5,973	2,214	108,221
1972	83,941	8,212	19,697	11,570	3,374	3,761	2,514	133,069
1971	47,178	6,810	8,350	3,610	561	2,677	2,292	71,478
1969-70	39,692	5,105	521	5,250	741	10,596	2,589	64,493